

DLA Piper LLP (US)

B. John Pendleton, Jr.
300 Campus Drive, Suite 100
Florham Park, New Jersey 07932
Tel: (973) 520-2561

Attorneys for Defendants

*Robert Aaron, Derivatives Portfolio Management, Ltd.,
Derivatives Portfolio Management, LLC,
DPM Mellon Limited, and
DPM Mellon, LLC*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re REFCO INC. SECURITIES LITIGATION

07 MDL No. 1902 (JSR)

KENNETH M. KRYS, *et al.*,

Plaintiffs,

08 Civ. 7416 (JSR)

-against-

ROBERT AARON, *et al.*,

Defendants.

**DECLARATION OF B. JOHN PENDLETON, JR. IN SUPPORT OF THE
DPM DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

B. JOHN PENDLETON, JR., under penalty of perjury, hereby declares as follows:

I am an attorney-at-law in the State of New Jersey, admitted *pro hac vice* in the United States District Court for the Southern District of New York, and a member of the law firm of DLA Piper LLP (US). I am familiar with the facts and circumstances stated herein and respectfully submit this declaration in support of the motion by Robert Aaron, Derivatives Portfolio Management, Ltd., Derivatives Portfolio Management, LLC, DPM Mellon Limited, and DPM Mellon, LLC for Summary Judgment.

1. Attached hereto as Exhibit 1 is a true and correct copy of Deposition Exhibit 4245, the SPHINX, Ltd. Offering Memo, dated July 12, 2002.

2. Attached hereto as Exhibit 2 is a true and correct copy of Deposition Exhibit 4161, The PlusFunds Group, Inc. Firm Overview, dated October 2004.

3. Attached hereto as Exhibit 3 is a true and correct copy of Deposition Transcript Excerpts of Diego Winegardner.

4. Attached hereto as Exhibit 4 is a true and correct copy of Deposition Transcript Excerpts of Mark Kavanagh.

5. Attached hereto as Exhibit 5 is a true and correct copy of Deposition Transcript Excerpts of Peter Roffman.

6. Attached hereto as Exhibit 6 is a true and correct copy of Deposition Transcript Excerpts of Justin Dew.

7. Attached hereto as Exhibit 7 is a true and correct copy of Deposition Exhibit 6100, the Standard & Poor's License Agreement, dated December 20, 2001.

8. Attached hereto as Exhibit 8 is a true and correct copy of Deposition Transcript Excerpts of Timothy Phillips.

9. Attached hereto as Exhibit 9 is a true and correct copy of Deposition Exhibit 4498, the Refco/SPhinX Implementation Meeting Agenda, dated April 12, 2002.

10. Attached hereto as Exhibit 10 is a true and correct copy of Deposition Exhibit 4499, an e-mail regarding Refco comments on the SPhinX, Ltd. Offering Memo, dated April 22, 2002.

11. Attached hereto as Exhibit 11 is a true and correct copy of Deposition Transcript Excerpts of Peter Ginsberg.

12. Attached hereto as Exhibit 12 is a true and correct copy of Deposition Exhibit 4954, an e-mail regarding the appointment of SphinX Directors, dated June 18, 2002.

13. Attached hereto as Exhibit 13 is a true and correct copy of Deposition Transcript Excerpts of Guy Castranova.

14. Attached hereto as Exhibit 14 is a true and correct copy of Deposition Transcript Excerpts of Stuart Drake.

15. Attached hereto as Exhibit 15 is a true and correct copy of Deposition Exhibit 4104, an e-mail regarding the Walkers memo defining "SPC", dated October 15, 2002.

16. Attached hereto as Exhibit 16 is a true and correct copy of Deposition Transcript Excerpts of Gabriel Bousbib.

17. Attached hereto as Exhibit 17 is a true and correct copy of Deposition Exhibit 4330, SphinX Board Minutes, dated June 25, 2002.

18. Attached hereto as Exhibit 18 is a true and correct copy of Deposition Transcript Excerpts of Guy Locke.

19. Attached hereto as Exhibit 19 is a true and correct copy of Deposition Transcript Excerpts of Kenneth Gerstein.

20. Attached hereto as Exhibit 20 is a true and correct copy of Deposition Exhibit 5524, Walkers responses to the JOL's request for information.

21. Attached hereto as Exhibit 21 is a true and correct copy of document bates stamped RA0018796-98, SphinX Board Minutes, dated June 18, 2002.

22. Attached hereto as Exhibit 22 is a true and correct copy of Deposition Transcript Excerpts of Martin Grennell.

23. Attached hereto as Exhibit 23 is a true and correct copy of Deposition Transcript Excerpts of Brian Owens.

24. Attached hereto as Exhibit 24 is a true and correct copy of Deposition Transcript Excerpts of Christopher Rose.

25. Attached hereto as Exhibit 25 is a true and correct copy of Deposition Transcript Excerpts of Tia Urban Lowe.

26. Attached hereto as Exhibit 26 is a true and correct copy of Deposition Transcript Excerpts of Richard Butt.

27. Attached hereto as Exhibit 27 is a true and correct copy of Deposition Exhibit 6105, the Agreement between Refco, SphinX and PlusFunds, dated November 27, 2002.

28. Attached hereto as Exhibit 28 is a true and correct copy of Deposition Exhibit 6106, the Corporation Agreement between Refco and PlusFunds, dated November 27, 2002.

29. Attached hereto as Exhibit 29 is a true and correct copy of Deposition Exhibit 5507, the Investment Management Agreement (“IMA”) between Sphinx, Ltd. and PlusFunds, dated July 12, 2002.

30. Attached hereto as Exhibit 30 is a true and correct copy of Deposition Exhibit 5611, the IMA between SMFF and PlusFunds, dated July 12, 2002.

31. Attached hereto as Exhibit 31 is a true and correct copy of the Complaint filed by the Official Committee of Unsecured Creditors of Refco Inc., on behalf of Refco Capital Markets, Ltd. (the “Committee”) against SPhinX Managed Futures Funds SPC, et al., dated December 16, 2005 (the “Preference Complaint”).

32. Attached hereto as Exhibit 32 is a true and correct copy of document bates stamped BOMK00243996-4005, Memorandum from Peter Ewing regarding Delegation of Authorities, dated December 12, 2004.

33. Attached hereto as Exhibit 33 is a true and correct copy of Deposition Exhibit 6524, an e-mail correspondence from Tia Urban regarding execution of Sphinx documents, dated June 17, 2002.

34. Attached hereto as Exhibit 34 is a true and correct copy of Deposition Transcript Excerpts of Jean-Christophe Jouas.

35. Attached hereto as Exhibit 35 is a true and correct copy of Deposition Exhibit 4376, an e-mail correspondence from Tia Urban regarding Walkers request for legal entities, dated June 18, 2002.

36. Attached hereto as Exhibit 36 is a true and correct copy of Deposition Exhibit 4377, Sphinx Board Resolutions regarding authorized signatories, dated June 19, 2002.

37. Attached hereto as Exhibit 37 is a true and correct copy of Deposition Transcript Excerpts of Susan Haery.

38. Attached hereto as Exhibit 38 is a true and correct copy of Deposition Exhibit 6525, Refco account opening documents, dated July 31, 2002.

39. Attached hereto as Exhibit 39 is a true and correct copy of Deposition Exhibit 6530, a Foreign Exchange Options Master Agreement, dated October 14, 2002.

40. Attached hereto as Exhibit 40 is a true and correct copy of Deposition Exhibit 4248, a Refco authorization letter signed by Robert Aaron, dated July 31, 2002.

41. Attached hereto as Exhibit 41 is a true and correct copy of the Amended Answer filed by SPhinX Managed Futures Funds SPC, et al., dated January 4, 2006, filed in response to the Preference Complaint.

42. Attached hereto as Exhibit 42 is a true and correct copy of the Committee's motion for summary judgment, dated January 9, 2006.

43. Attached hereto as Exhibit 43 is a true and correct copy of Deposition Exhibit 4331, Sphinx Board Minutes, dated October 1, 2002.

44. Attached hereto as Exhibit 44 is a true and correct copy of Deposition Exhibit 4386, RCM sub-account documents, dated December 23, 2002.

45. Attached hereto as Exhibit 45 is a true and correct copy of Deposition Exhibit 4218, the Joint Official Liquidators' Brief to the United States Court of Appeals for the Second Circuit, dated March 7, 2007.

46. Attached hereto as Exhibit 46 is a true and correct copy of Oral Argument Transcript Excerpts, dated January 15, 2010.

47. Attached hereto as Exhibit 47 is a true and correct copy of Deposition Exhibit 5265, a Service Agreement between DPM and Sphinx, dated July 9, 2002.

48. Attached hereto as Exhibit 48 is a true and correct copy of Deposition Exhibit 4877, a Service Agreement between DPM and Sphinx, dated May 1, 2003.

49. Attached hereto as Exhibit 49 is a true and correct copy of Deposition Exhibit 5269, a Service Agreement between DPM and Sphinx, dated February 27, 2004.

50. Attached hereto as Exhibit 50 is a true and correct copy of Deposition Exhibit 4878, an Amended and Restated Service Agreement between DPM and Sphinx, dated June 30, 2004.

51. Attached hereto as Exhibit 51 is a true and correct copy of document bates stamped PLF-REM-0059620-26, a Risk Service Agreement between DPM and PlusFunds, dated February 27, 2004.

52. Attached hereto as Exhibit 52 is a true and correct copy of Deposition Transcript Excerpts of Keith Kemp.

53. Attached hereto as Exhibit 53 is a true and correct copy of Deposition Exhibit 5636, Articles of Association of SMFF, dated September 20, 2002.

54. Attached hereto as Exhibit 54 is a true and correct copy of Deposition Transcript Excerpts of Robert Aaron.

55. Attached hereto as Exhibit 55 is a true and correct copy of Deposition Transcript Excerpts of Christine Kuna.

56. Attached hereto as Exhibit 56 is a true and correct copy of Deposition Transcript Excerpts of Kristopher Laufer.

57. Attached hereto as Exhibit 57 is a true and correct copy of Deposition Exhibit 4629, an e-mail from Peter Ewing regarding contract reviews, dated December 29, 2004.

58. Attached hereto as Exhibit 58 is a true and correct copy of Deposition Exhibit 5271, an e-mail from Chris Rose regarding DPM Service Agreement, dated December 9, 2004.

59. Attached hereto as Exhibit 59 is a true and correct copy of Deposition Transcript Excerpts of Christopher Aliprandi.

60. Attached hereto as Exhibit 60 is a true and correct copy of document bates stamped CON00000354-400, Sphinx, Ltd Financial Statements, dated December 31, 2004.

61. Attached hereto as Exhibit 61 is a true and correct copy of Deposition Transcript Excerpts of John Wehrle.

62. Attached hereto as Exhibit 62 is a true and correct copy of document bates stamped CANDM00007350-478, Sphinx Funds Open Item Request from auditors PricewaterhouseCoopers, dated May 23, 2006.

63. Attached hereto as Exhibit 63 is a true and correct copy of document bates stamped DPM000480870-79, a DPM presentation regarding PlusFunds Remediation, dated November 11, 2005.

64. Attached hereto as Exhibit 64 is a true and correct copy of document bates stamped DPM000480756-59, an e-mail from Kathleen Watt regarding PlusFunds Remediation, dated November 1, 2005.

65. Attached hereto as Exhibit 65 is a true and correct copy of Deposition Exhibit 5267, a redline draft of a DPM Service Agreement, dated February 17, 2004.

66. Attached hereto as Exhibit 66 is a true and correct copy of Deposition Exhibit 5268, a list view of a redline draft of DPM Service Agreement.

67. Attached hereto as Exhibit 67 is a true and correct copy of Deposition Exhibit 4379, a letter from Mr. Hackl regarding modification of Agreement between Refco, Sphinx and PlusFunds, dated December 10, 2002.

68. Attached hereto as Exhibit 68 is a true and correct copy of Hearing Transcript Excerpts before Judge Drain, dated December 19, 2005.

69. Attached hereto as Exhibit 69 is a true and correct copy of Deposition Exhibit 4062, a Discretionary Investment Management Agreement (“DIMA”) between John W. Henry & Co., PlusFunds and Sphinx, dated December 20, 2002.

70. Attached hereto as Exhibit 70 is a true and correct copy of Deposition Exhibit 4378, an Agreement between Sentinel Bank and Trust, PlusFunds and Sphinx, dated October 7, 2002.

71. Attached hereto as Exhibit 71 is a true and correct copy of Deposition Exhibit 6535, a document listing account numbers and corresponding date opened.

72. Attached hereto as Exhibit 72 is a true and correct copy of Deposition Exhibit 4383, an e-mail from Christopher Sugrue regarding Managed Futures Launch, dated December 9, 2002.

73. Attached hereto as Exhibit 73 is a true and correct copy of Deposition Exhibit 5082, an e-mail forwarding a letter from Susan Haery, dated December 10, 2002.

74. Attached hereto as Exhibit 74 is a true and correct copy of Deposition Exhibit 4503, an e-mail from Tia Urban regarding process for Refco FX accounts, dated May 12, 2005.

75. Attached hereto as Exhibit 75 is a true and correct copy of Deposition Exhibit 4504, an e-mail from Keith Kemp regarding set up of Refco accounts, dated October 3, 2005.

76. Attached hereto as Exhibit 76 is a true and correct copy of Deposition Exhibit 5187, an e-mail from Diego Winegardner regarding questions about the structure of Sphinx, dated March 15, 2004.

77. Attached hereto as Exhibit 77 is a true and correct copy of Deposition Transcript Excerpts of Christopher Rose's 2006 testimony.

78. Attached hereto as Exhibit 78 is a true and correct copy of Deposition Exhibit 6532, an e-mail from Tia Urban regarding account lists, dated March 9, 2004.

79. Attached hereto as Exhibit 79 is a true and correct copy of an example of DPM data feed dated October 10, 2005.

80. Attached hereto as Exhibit 80 is a true and correct copy of Deposition Exhibit 4398, an e-mail from Chris Rose regarding rate on cash balances, dated August 6, 2004.

81. Attached hereto as Exhibit 81 is a true and correct copy of Deposition Exhibit 4660, an e-mail from Christopher Sugrue regarding interest on cash balances at Refco, dated December 10, 2003.

82. Attached hereto as Exhibit 82 is a true and correct copy of Deposition Exhibit 4677, an e-mail from Gabriel Bousbib regarding cash management program, dated October 18, 2004.

83. Attached hereto as Exhibit 83 is a true and correct copy of Deposition Transcript Excerpts of Bojan Trivic.

84. Attached hereto as Exhibit 84 is a true and correct copy of Deposition Transcript Excerpts of Diego Lago.

85. Attached hereto as Exhibit 85 is a true and correct copy of Deposition Exhibit 4643, an e-mail from Joseph Collins regarding draft of Refco agreement, dated November 11, 2002.

86. Attached hereto as Exhibit 86 is a true and correct copy of Deposition Transcript Excerpts of Patrina Farquharson.

87. Attached hereto as Exhibit 87 is a true and correct copy of Deposition Exhibit 4099, an e-mail from Chris Rose regarding Risk Management, dated May 30, 2006.

88. Attached hereto as Exhibit 88 is a true and correct copy of Deposition Transcript Excerpts of Nuri Feder.

89. Attached hereto as Exhibit 89 is a true and correct copy of Deposition Transcript Excerpts of Luis Porras.

90. Attached hereto as Exhibit 90 is a true and correct copy of Deposition Exhibit 4662, an e-mail from Gabriel Bousbib regarding cash balances, dated May 28, 2004.

91. Attached hereto as Exhibit 91 is a true and correct copy of document bates stamped PLF-REM-0011474-76, an e-mail from Chris Rose regarding Managed Futures settlement with Refco, dated May 3, 2006.

92. Attached hereto as Exhibit 92 is a true and correct copy of Deposition Exhibit 6172, the Operational Procedures Report of PlusFunds, dated May 23, 2005.

93. Attached hereto as Exhibit 93 is a true and correct copy of Deposition Exhibit 5097, an e-mail from Tia Urban regarding Collateral Monitoring Procedures, dated July 2, 2004.

94. Attached hereto as Exhibit 94 is a true and correct copy of Deposition Transcript Excerpts of Andrew Feighery.

95. Attached hereto as Exhibit 95 is a true and correct copy of Deposition Exhibit 4384, a letter from DPM dated December 10, 2002.

96. Attached hereto as Exhibit 96 is a true and correct copy of document bates stamped RA 0021268-306, Sphinx Ltd. Articles of Association, dated September 20, 2002.

97. Attached hereto as Exhibit 97 is a true and correct copy of Deposition Exhibit 5397, the Sphinx Director Services Agreement, dated December 20, 2005.

98. Attached hereto as Exhibit 98 is a true and correct copy of Deposition Transcript Excerpts of David Crichlow.

99. Attached hereto as Exhibit 99 is a true and correct copy of Deposition Transcript Excerpts of Walter Price.

100. Attached hereto as Exhibit 100 is a true and correct copy of Deposition Exhibit 5051, the Declaration of Marc T.G. Dworsky, dated May 17, 2006.

101. Attached hereto as Exhibit 101 is a true and correct copy of Deposition Exhibit 4798, the Liquidators' Brief, dated September 11, 2006.

102. Attached hereto as Exhibit 102 is a true and correct copy of Deposition Transcript Excerpts of Greg Troccoli.

103. Attached hereto as Exhibit 103 is a true and correct copy of Deposition Exhibit 5632, the expert report of Anthony Travers, dated August 31, 2012.

104. Attached hereto as Exhibit 104 is a true and correct copy of Deposition Exhibit 5401, an Instant Message conversation, dated March 10, 2006.

105. Attached hereto as Exhibit 105 is a true and correct copy of Deposition Exhibit 4588, a January 5, 2004 email from Christopher Sugrue to Chris Rose regarding funds raised by Refco.

106. Attached hereto as Exhibit 106 is a true and correct copy of Deposition Exhibit 4680, PlusFunds Review from Gabriel Bousbib, dated February 25, 2005.

107. Attached hereto as Exhibit 107 is a true and correct copy of Deposition Exhibit 4063, Risk Management Policies dated July 2003.

108. Attached hereto as Exhibit 108 is a true and correct copy of Deposition Transcript excerpts of Oscar Montes.

109. Attached hereto as Exhibit 109 is a true and correct copy of Deposition Exhibit 4382, the executed Sentinel subscription documents.

110. Attached hereto as Exhibit 110 is a true and correct copy of Deposition Exhibit 5079, a October 10, 2002 email chain between Christopher Sugrue and Peter Roffman.

111. Attached hereto as Exhibit 111 is a true and correct copy of Deposition Exhibit 4545, Bousbib Memorandum to PlusFunds' Compensation Committee, dated July 7, 2003.

112. Attached hereto as Exhibit 112 is a true and correct copy of Deposition Exhibit 4380, a July 27, 2004 email chain between Tia Urban and Brian McEvoy regarding Sentinel and Refco.

113. Attached hereto as Exhibit 113 is a true and correct copy of Deposition Exhibit 4642, an October 18, 2002 email from Gabriel Bousbib.

114. Attached hereto as Exhibit 114 is a true and correct copy of Deposition Transcript excerpts of Santo Maggio.

115. Attached hereto as Exhibit 115 is a true and correct copy of Deposition Transcript excerpts of Kenneth Krys.

116. Attached hereto as Exhibit 116 is a true and correct copy of Deposition Exhibit 5264, a June 6, 2006 email from Christopher Rose re: timeline of thievery.

117. Attached hereto as Exhibit 117 is a true and correct copy of Deposition Exhibit 4007, an April 7, 2005 PlusFunds Board Resolution re: Standby Credit Facility and Randall Yanker's appointment to the Special Committee.

118. Attached hereto as Exhibit 118 is a true and correct copy of Deposition Exhibit 4012, an April 11, 2005 Consent of PlusFunds' Special Committee.

119. Attached hereto as Exhibit 119 is a true and correct copy of Deposition Exhibit 4400, an August 10, 2004 email from Keith Kemp re: interest at RCM.

120. Attached hereto as Exhibit 120 is a true and correct copy of Deposition Exhibit 4733, attached January 20, 2005 letter from David Henritze of Refco to Sugrue re: RCM interest rates.

121. Attached hereto as Exhibit 121 is a true and correct copy of Deposition Exhibit 5341, October 7, 2004 letter from Hackl to Bousbib re: interest rates.

122. Attached hereto as Exhibit 122 is a true and correct copy of Deposition Exhibit 5344, a January 20, 2005 letter from Refco to PlusFunds re: interest rates.

123. Attached hereto as Exhibit 123 is a true and correct copy of Deposition Exhibit 4061, a December 19, 2002 Risk Committee Report.

124. Attached hereto as Exhibit 124 is a true and correct copy of Deposition Exhibit 4213, excerpts of 2005 Risk Committee Reports.

125. Attached hereto as Exhibit 125 is a true and correct copy of Deposition Transcript excerpts of Ricardo Mosquera.

126. Attached hereto as Exhibit 126 is a true and correct copy of Deposition Transcript excerpts of Yelena Kim Godfrey.

127. Attached hereto as Exhibit 127 is a true and correct copy of RCM excess cash account statement at CCC000858-61.

128. Attached hereto as Exhibit 128 is a true and correct copy of the expert report of I. Michael Greenberger, dated June 29, 2012

129. Attached hereto as Exhibit 129 is a true and correct copy Deposition Exhibit 4089, RCM foreign exchange customer account statement.

130. Attached hereto as Exhibit 130 is a true and correct copy of Deposition Exhibit 5355, an August 26, 2004 IM Conversation.

131. Attached hereto as Exhibit 131 is a true and correct copy of Deposition Exhibit 5354, a September 21, 2004 Email Chain between Farquharson and Owen.

132. Attached hereto as Exhibit 132 is a true and correct copy of Deposition Exhibit 5385, an SEC Order regarding Jon Knight.

133. Attached hereto as Exhibit 133 is a true and correct copy of Deposition Exhibit 5359, a November 15, 2004 email.

134. Attached hereto as Exhibit 134 is a true and correct copy of Deposition Exhibit 5363, a November 12, 2004 email.

135. Attached hereto as Exhibit 135 is a true and correct copy of Deposition Exhibit 5364, a November 14, 2004 email.

136. Attached hereto as Exhibit 136 is a true and correct copy of Deposition Exhibit 5366, a November 18, 2004 email.

137. Attached hereto as Exhibit 137 is a true and correct copy of Deposition Exhibit 5367, a May 18, 2006 email.

138. Attached hereto as Exhibit 138 is a true and correct copy of Deposition Exhibit 5411, a March 2005 Promissory Note.

139. Attached hereto as Exhibit 139 is a true and correct copy of Deposition Exhibit 5410, an April 2005 Promissory Note.

140. Attached hereto as Exhibit 140 is a true and correct copy of Deposition Exhibit 5412, a March 31, 2005 memorandum.

141. Attached hereto as Exhibit 141 is a true and correct copy of Deposition Exhibit 5413, an August 2005 IM conversation.

142. Attached hereto as Exhibit 142 is a true and correct copy of Deposition Exhibit 5414, an August 10, 2005 email.

143. Attached hereto as Exhibit 143 is a true and correct copy of Deposition Exhibit 5415, an August 19, 2005 email.

144. Attached hereto as Exhibit 144 is a true and correct copy of Deposition Exhibit 5369, a March 31, 2005 email.

145. Attached hereto as Exhibit 145 is a true and correct copy of Deposition Exhibit 5370, an August 10, 2005 IM conversation.

146. Attached hereto as Exhibit 146 is a true and correct copy of Deposition Exhibit 5371, a September 21, 2005 IM conversation.

147. Attached hereto as Exhibit 147 is a true and correct copy of Deposition Exhibit 5373, a September 26, 2005 memorandum from Tamischa Ambrister.

148. Attached hereto as Exhibit 148 is a true and correct copy of Deposition Exhibit 5374, an October 3, 2005 email.

149. Attached hereto as Exhibit 149 is a true and correct copy of a March 7, 2008 email, bates stamped PKF 00542.

150. Attached hereto as Exhibit 150 is a true and correct copy of Deposition Exhibit 5390, the BAWAG Non-Prosecution Agreement.

151. Attached hereto as Exhibit 151 is a true and correct copy of Deposition Exhibit 4749, MKK Audit Exempt Workpapers.

152. Attached hereto as Exhibit 152 is a true and correct copy of Deposition Exhibit 4750, Owens handwritten note.

153. Attached hereto as Exhibit 153 is a true and correct copy of Deposition Exhibit 4751, a June 7, 2006 email.

154. Attached hereto as Exhibit 154 is a true and correct copy of Deposition Exhibit 5398, a February 19, 2006 email.

155. Attached hereto as Exhibit 151 is a true and correct copy of Deposition Exhibit 5396, a February 28, 2006 IM conversation.

156. Attached hereto as Exhibit 156 is a true and correct copy of Deposition Exhibit 5428, a March 2, 2006 email.

157. Attached hereto as Exhibit 157 is a true and correct copy of Deposition Exhibit 5429, a March 3, 2006 SPhinX board resolution.

158. Attached hereto as Exhibit 158 is a true and correct copy of Deposition Exhibit 5430, a March 13, 2006 email.

159. Attached hereto as Exhibit 159 is a true and correct copy of the Stipulation and Order of Settlement in the Preference Action, dated April 27, 2006.

160. Attached hereto as Exhibit 160 is a true and correct copy of Deposition Exhibit 5402, a memorandum of a March 25, 2008 meeting.

161. Attached hereto as Exhibit 161 is a true and correct copy of Deposition Exhibit 3302, the Complaint filed in *Rogers Raw Materials Fund, L.P., et al. v. Refco Capital Markets*, dated Oct. 24, 2005.

162. Attached hereto as Exhibit 162 is a true and correct copy of the Response of Rogers Raw Materials Fund, L.P., and Rogers International Raw Materials Fund, L.P. to the Chapter 7 Trustee's Objection to Their Respective Claims (Claim Nos. 251 and 252), in *In re: Refco, LLC*, dated Sept. 18, 2006.

163. Attached hereto as Exhibit 163 is a true and correct copy of a December 18, 2006 Wall Street Journal article (KELLNER000001).

164. Attached hereto as Exhibit 164 is a true and correct copy of PlusFunds Proof of Claim, dated February 20, 2007, with supporting Addendum.

165. Attached hereto as Exhibit 165 is a true and correct copy of the PlusFunds Asset Sale to the SPhinX Funds, dated April 26, 2007.

166. Attached hereto as Exhibit 166 is a true and correct copy of Deposition Exhibit 5427, a March 2, 2006 Email.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing is willfully false, I may be subject to punishment.

Dated: Florham Park, New Jersey
December 31, 2012

DLA PIPER US LLP

By: s/ B. John Pendleton, Jr.
DLA PIPER LLP (US)
300 Campus Drive, Suite 100
Florham Park, NJ 07932-1039
Telephone No.: 973.520.2561
Fax No.: 973.520.2581
Attorneys for Defendants
Derivatives Portfolio Management, Ltd.,
Derivatives Portfolio Management, LLC,
DPM Mellon Limited, DPM Mellon,
LLC, and Robert Aaron